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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,065	01/12/2001	Appadurai Thangaraj	4355D (DIV)	3120

7590

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EXAMINER

NGUYEN, NGOC YEN M

ART UNIT PAPER NUMBER

1754

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DATE MAILED: 01/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/760,065

Applicant(s)
Thangaraj et al

Examiner
N. M. Nguyen

Art Unit
1754



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 12, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-59 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 20) ☐ Other:

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The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 41-71 have been renumbered 29-59.

The request for canceling claims 30-40 in the preliminary amendment was not entered because these claims were not present in the instant application.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims ⁶28-59 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the instant specification and claims, it appears that the second zone is separated from the first zone by the membrane, however, the membrane liquid water or water vapor to pass therethrough, thus, the water in the first zone would pass through the membrane to reach the

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mixture of chlorite and acid forming component and when they get in contact, chlorine dioxide would be formed, thus, the device as claimed appears to be transient, not as a permanent device.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 28-34, 39-40, 48 are rejected under 35 U.S.C. 102(b) as being anticipated by CN 1,104,610 using Derwent abstract 1997-311,227 for the English abstract.

CN '610 discloses a bag for generating chlorine dioxide used to disinfect drinking water, fruit and vegetables, which is manufactured by steps including (1) melting Chinese wax, stearic acid, bees wax or paraffin wax; (ii) adding sodium chlorite to form microcapsules; (iii) mixing the dry tartaric acid or oxalic acid particles; and (iv) placing the mixture into a cloth bag (note English abstract). The cloth bag is considered as the claimed water insoluble membrane. When the bag is placed in water, the bag is considered as the second zone and the water is considered as the first zone. Since the tartaric acid as used in CN '610 is the same as the one used in the claimed invention, the pH of the tartaric acid when dissolved in water would inherently be below about 5 as required in the instant claim 39 and the produced aqueous solution of chlorine dioxide would inherently have the same pH as required in the instant claim 40.

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The bag containing the mixture of wax, sodium chlorite and tartaric acid as disclosed in CN '610 anticipates the claimed device.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over CN '610.

The CN '610 discloses that the wax and the chlorite were formed into microcapsules, however, no size was disclosed.

However, the microcapsules as disclosed in CN '610 can be considered as tablets, powders, granules, pellets or agglomerates depending on its size and shape, especially because a wax (i.e. a binder) was used. It would have been obvious to one ordinary skill in the art to optimize the size of the microcapsules of CN '610 in order to obtain the best results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ngoc-Yen Nguyen whose telephone number is (703) 308-2536.

The examiner is currently on a part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on (703) 308-1164. The fax phone number for this Group is (703) 872-9311 (for OFFICIAL After Final amendment only) or (703) 872-9310 (for all other OFFICIAL faxes). UNOFFICIAL fax can be sent to (703) 305-6078.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

N. M. Nguyen
January 14, 2002


N. M. Nguyen
Primary Examiner
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